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09/887,609	06/22/2001	Adam G. Wolff	14531.80	7369
7590	03/01/2005			EXAMINER
RICK D. NYDEGGER WORKMAN, NYDEGGER & SEELEY 1000 Eagle Gate Tower 60 East South Temple Salt Lake City, UT 84111			PESIN, BORIS M	
			ART UNIT	PAPER NUMBER
			2174	
			DATE MAILED: 03/01/2005	

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.	09/887,609	Applicant(s)	WOLFF ET AL.
Examiner	Boris Pesin	Art Unit	2174

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 04 October 2004.

2a) This action is **FINAL**. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-7 and 9-41 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 1-7 and 9-41 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) Notice of References Cited (PTO-892)
2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
4) Interview Summary (PTO-413)
Paper No(s)/Mail Date _____.
5) Notice of Informal Patent Application (PTO-152)
6) Other: _____.

DETAILED ACTION

Response to Amendment

This communication is responsive to Amendment B, filed 10/04/2004.

Claims 1-7, 9-41 are pending in this application. Claims 1, 18 and 23 are independent claims. In the Amendment B, claims 1, 18, 23, and 27 were amended, claims 33-41 were added as new and claim 8 was cancelled. This action is made Final.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 2, 3, 4, 7, 9, 10, 12, 13, 23, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, and 37 are rejected under 35 U.S.C. 102(e) as being anticipated by Jerding et al. (US 6817028).

In regards to claim 1, Jerding teaches a computing system that includes a display screen that is capable of displaying a variety of types of media, a method for providing a dynamically controllable user interface that embraces the variety of types of media, the

method comprising the acts of: displaying a menu system on the display screen, wherein the menu system includes first and second categories selectable by a viewer, each of the first and second categories having corresponding subcategories (Figure 5, Element 78 are the categories and Element 76 is the subcategories); displaying the first category at a selected location of the display screen (Figure 5, "ABC"); in response to receiving a selection of the second category by the viewer, automatically replacing the first category with the second category at the selected position of the display screen (Figure 6, "FOX" is now in place of "ABC"); and displaying, with the second category, the subcategories corresponding to the second category in a single horizontal line, such that all of the subcategories corresponding to the second category can be accessed by horizontal scrolling of the menu system and without requiring any vertical scrolling of the menu system (Figure 6, The user can scroll left and right to see all the subcategories corresponding to "ABC").

In regards to claim 2, Jerding teaches a method wherein the act of displaying the first category is performed by a preset, default setting (i.e. "When the user interface 39 receives the activation message from the SAM 36, the user interface 39 proceeds in accessing an IPG database 40 and a configuration module 41 to determine the appropriate program guide configuration (initial guide arrangement or view) to present to the subscriber on the display 21."(Column 5, Line 54)):

In regards to claim 3, Jerding teaches a method wherein the act of displaying the first category is performed upon receipt of a first input command, wherein the first input command is received prior to the input command corresponding to the selection of the

second category by the viewer (i.e. "When the user interface 39 receives the activation message from the SAM 36, the user interface 39 proceeds in accessing an IPG database 40 and a configuration module 41 to determine the appropriate program guide configuration (initial guide arrangement or view) to present to the subscriber on the display 21."(Column 5, Line 54)).

In regards to claim 4, Jerding teaches a method for having first and second categories in a hierarchical order (i.e. Figure 5).

In regards to claim 7, Jerding teaches a method wherein the act of displaying the first category includes displaying one or more subcategories corresponding to the first category (Figure 5, Element 76).

In regards to claim 9, Jerding teaches a method wherein the first category corresponds to first type of media (Figure 5, Element 78).

In regards to claim 10, Jerding teaches a method wherein one of the one or more subcategories corresponding to the first category includes a selectable option that performs a function specific to the first type of media (Figure 5, the user can "select" a show).

In regards to claim 12, Jerding teaches a method further comprising the act of displaying the first type of media in a background display of the display screen, the menu system is displayed in a foreground display of the display screen and the selected position remains constant (Figure 5).

In regards to claim 13, Jerding teaches a method wherein the act of automatically replacing includes replacing a display of the one or more subcategories corresponding

to the first category with a display of one or more subcategories corresponding to the second category within the selected position (Figures 5 and 6).

In regards to claim 23, Jerding teaches a menu comprising of a contextual option, which upon selection, controls an aspect of media displayed on a display device (Figure 5, Element 76); and a static option, which upon selection, executes a mini application (Figure 5, Element 78) while displaying the media on the display device, wherein the contextual option and the static option are organized in a categorical order that includes a plurality of categories each of the categories having corresponding subcategories (Figure 5, Element 76). Jerding further teaches a method wherein each category that is selected by the user is automatically displayed at a selected position on the display screen, in response to being selected by a user, and such that a category that is not displayed at the selected position automatically replaces a category that is being displayed at the selected position in response to being selected (Figures 5 and 6, “ABC” changes to “FOX”), wherein all subcategories corresponding to the selected category are displayed within a single horizontal line, such that all of the subcategories corresponding to the selected category can be accessed by horizontal scrolling of the menu system and without requiring any vertical scrolling of the menu system (Figure 6, The user can scroll left and right to see all the subcategories corresponding to “ABC”).

Claim 27 is in the same context as claim 1; therefore it is rejected under similar rationale.

Claim 28 is in the same context as claim 2; therefore it is rejected under similar rationale.

Claim 29 is in the same context as claim 3; therefore it is rejected under similar rationale.

In regards to claim 30, Jerding teaches a computer program product comprising executable code for implementing the act of displaying the menu system in a foreground display of the display screen while displaying a type of media in a background display of the display screen (Figure 5).

In regards to claim 31, Jerding teaches a product wherein the first and second categories include selectable subcategories, wherein at least one of the selectable subcategories corresponds to launching an application independent of the type of media displayed in the background display of the display screen (Figure 5, Element 73).

In regards to claim 32, Jerding teaches a method wherein the first category corresponds to a first type of media that is displayable on the display screen and wherein the second category includes options that correspond to a second type of media that is displayable on the display screen (Figure 5, Elements 76 and 73).

In regards to claim 33, Jerding teaches a method as recited in claim 1, wherein upon replacing the first category with the second category the method further includes displaying the first category with the second category (Figure 5).

In regards to claim 34, Jerding teaches a method as recited in claim 1, wherein every subcategory associated with the second category is displayed by the menu system within the display screen at the same time (Figure 5, Element 76).

In regards to claim 35, Jerding teaches a method as recited in claim 1, wherein the subcategories corresponding to the fist category are different than the subcategories corresponding to the second category (Figure 5, Element 76).

In regards to claim 36, Jerding teaches a method as recited in claim 35, wherein none of the subcategories corresponding to the first category are the same as the subcategories corresponding to the second category (Figure 5, Element 76).

In regards to claim 37, Jerding teaches a method as recited in claim 1, wherein horizontal scrolling includes moving the display of at least some subcategories horizontally on the display screen (Figure 5, Element 76).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.

4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 5, 11, 14, 15, 16, 17, and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jerding et al. (US 6817028) in view of Satterfield (US 6061097).

In regards to claim 5, Jerding teaches all the limitations of claim 1. Jerding does not teach a method wherein the first category corresponds to a first type of media and the second category corresponds to a second type of media, and wherein the first type of media is different from the second type of media. Satterfield teaches a method wherein the first category corresponds to a first type of media and the second category corresponds to a second type of media, and wherein the first type of media is different from the second type of media (Figure 4, Element 56 and 58). It would have been obvious to one of ordinary skill in the art at the time of the invention to combine Jerding with the teachings of Satterfield to include different types of media with the motivation to provide the user with a wider selection of information without having to leave the main menu.

In regards to claim 11, Jerding teaches all the limitations of claim 9. Jerding does not teach a method wherein one do the one or more subcategories corresponding to the first category includes a selectable option that initiates an application corresponding to a third type of media. Satterfield teaches a method wherein one do the one or more subcategories corresponding to the first category includes a selectable option that initiates an application corresponding to a third type of media (Figure 4, Element 56 and 58).

In regards to claim 14, Jerding teaches all the limitations of claim 13. Jerding does not teach a method wherein the second category corresponds to a second type of media. Satterfield teaches a method wherein the second category corresponds to a second type of media (Figure 4, Element 56 and 58).

In regards to claim 15, Jerding and Satterfield teach all the limitations of claim 14. Jerding does not teach a method wherein one of the one or more subcategories corresponding to the second category includes a selectable option that performs a function specific to the second type of media. Satterfield teaches a method wherein one of the one or more subcategories corresponding to the second category includes a selectable option that performs a function specific to the second type of media (Figure 4, Element 56 and 58).

In regards to claim 16, Jerding teaches all the limitations of claim 14. Jerding does not teach a method wherein one of the one or more subcategories corresponding to the second category includes a selectable option that initiates an application corresponding to a third type of media. Satterfield teaches a method wherein one of the one or more subcategories corresponding to the second category includes a selectable option that initiates an application corresponding to a third type of media (Figure 4, Element 56 and 58).

In regards to claim 17, Jerding and Satterfield teach all the limitations of claim 14. Jerding further teaches a method further comprising the act of displaying the first type of media in a background display of the display screen the menu system is displayed in a

foreground display of the display screen and the selected position remains constant (Figure 5).

In regards to claim 24, Jerding teaches all the limitations of claim 23. Jerding does not teach a menu system wherein subcategories correspond to the categories, and wherein the subcategories are selectable to a user to independently perform functions on a variety of different types of media. Satterfield teaches a menu system wherein subcategories correspond to the categories, and wherein the subcategories are selectable to a user to independently perform functions on a variety of different types of media (Figure 4, Element 56 and 58). It would have been obvious to one of ordinary skill in the art at the time of the invention to combine Jerding with the teachings of Satterfield to include different types of media with the motivation to provide the user with a wider selection of information without having to leave the main menu.

In regards to claim 6, Jerding and Satterfield teach all the limitations of claim 5. Jerding and Satterfield do not specifically teach a method wherein the first type of media includes television programming, and wherein the second type of media includes a web page. However; Official Notice is given that it is well known in the art to provide weather and sports information using a web page. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Jerding and Satterfield to include showing a web page with the motivation to provide the user more up-to-date information by using the world wide web.

Claims 18, 22, 38, 39, 40, and 41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jerding et al. (US 6817028) in view of Wilcox et al. (US 6678891).

In regards to 18, Jerding teaches a dynamically controllable menu system for use with a display screen that provides options selectable by a user to perform one or more functions on a variety of different types of media, the menu system comprising: a plurality of categories displayed on the display screen wherein the categories are capable of ratcheting such that any category from the plurality of categories that is selected by a user is automatically displayed at a selected location on the display screen, in response to being selected, while having the selected position remain constant (Figure 5, Element 78). Furthermore, Jerding teaches a system wherein all of the one or more subcategories corresponding to the selected category are displayed within a single horizontal line, such that all of the subcategories corresponding to the selected category can be accessed by horizontal scrolling of the menu system and without requiring any vertical scrolling (Figure 5, Element 76). Jerding does not teach a system comprising a plurality of subcategories corresponding to the plurality of categories, wherein the only subcategories displayed on the display screen at a given instant in time are the one or more subcategories corresponding to the selected category displayed at the selected position on the display screen at the given instant in time. Wilcox teaches, a system comprising a plurality of subcategories corresponding to the plurality of categories, wherein the only subcategories displayed on the display screen at a given instant in time are the one or more subcategories corresponding to the selected category displayed at the selected position on the display screen at the

given instant in time (Figure 19). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Jerding with the teachings of Wilcox and hide all the subcategories that are not relevant to the selected category with the motivation to provide more viewable space on the screen.

In regards to claim 22, Jerding and Wilcox teach all the limitations of claim 18. Jerding further teaches a menu system wherein at least one of the subcategories launches an application that provides current information on a selectable topic (Figure 5 Element 73, when the user selects a channel it launches that particular show).

Claim 38 is in similar scope to claim 34; therefore it is rejected under similar rationale.

Claim 39 is in similar scope to claim 35; therefore it is rejected under similar rationale.

Claim 40 is in similar scope to claim 36; therefore it is rejected under similar rationale.

Claim 41 is in similar scope to claim 37; therefore it is rejected under similar rationale.

Claims 19, 20, and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jerding et al. (US 6817028) in view of Wilcox et al. (US 6678891) in view of Satterfield (US 6061097) in further view of Segal et al. (US 6765557).

In regards to claim 19, Jerding and Wilcox teach all the limitations of claim 18. Jerding further teaches menus system specific to programming (Figure 5). Jerding and

Wilcox do not teach a menu system wherein the plurality of categories includes a category specific to the Internet and a category specific to electronic communications. Satterfield teaches a menu system wherein the first category corresponds to a first type of media and the second category corresponds to a second type of media, and wherein the first type of media is different from the second type of media (Figure 4, Element 56 and 58). It would have been obvious to one of ordinary skill in the art at the time of the invention to combine Jerding and Wilcox with the teachings of Satterfield to include different types of media with the motivation to provide the user with a wider selection of information without having to leave the main menu.

Jerdong, Wilcox, and Satterfield do not specifically teach a menu system wherein the plurality of categories includes a category specific to the Internet and a category specific to electronic communications. Segal teaches a menu system wherein the plurality of categories includes a category specific to the Internet and a category specific to electronic communications (Figure 5A, Elements 34 and 38). It would have been obvious to one of ordinary skill in the art at the time of the invention to combine Jerding, Wilcox, and Satterfield with the teachings of Segal and include a menu system that contains categories for Internet and electronic communications with the motivation to provide the user with a convenient method for communication.

In regards to claim 20, Jerding, Wilcox, Satterfield and Segal teach all the limitations of claim 19. Jerding further teaches a system wherein one of the categories allows a user to launch a function to modify a display of programming (Figure 5). Jerding, Wilcox, and Satterfield do not teach a menu system wherein one category

allows a user to modify a display of a web page, and another category to participate in electronic communication. Segal teaches a menu system wherein one category allows a user to modify a display of a web page, and another category to participate in electronic communication (Figure 5A, Elements 34 and 38).

In regards to claim 21, the combination of Jerding, Wilcox, Satterfield, and Segal teaches all the limitations of claim 20. Jerding further teaches a menu system wherein subcategories corresponding to the third category allows a user to participate in electronic communication while at least one of programming or a web page is displayed on the display screen (Figure 5, Element 73).

Claims 25 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jerding et al. (US 6817028) in view of Satterfield (US 6061097) in further view of Segal et al. (US 6765557).

In regards to claim 25, Jerding and Satterfield teach all the limitations of claim 24. Jerding and Satterfield do not teach a system wherein the variety of different types of media includes programming, web pages, and electronic communication. Segal teaches a menu system wherein the plurality of categories includes a category specific to programming, web pages, and electronic communications (Figure 5A, Elements 34, 36, and 38). It would have been obvious to one of ordinary skill in the art at the time of the invention to combine Jerding and Satterfield with the teachings of Segal and include

a menu system that contains categories for Internet and electronic communications with the motivation to provide the user with a convenient method for communication.

In regards to claim 26, Jerding and Satterfield teach all the limitations of claim 24. Jerding further teaches a menu system wherein the categories are displayed in a foreground display on a display screen and at least one type of the media is displayed in the background display of the display screen (Figure 5).

Response to Arguments

Applicant's arguments with respect to claims 1-7 and 9-41 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Inquiry

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Boris Pesin whose telephone number is (571) 272-4070. The examiner can normally be reached on Monday-Friday except every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kristine Kincaid can be reached on (571) 272-4063. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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